

STATE OF SOUTH CAROLINA
STATE ETHICS COMMISSION

FOR COMMISSION USE ONLY:
CASE NUMBER
c 2023-136

COMPLAINT FORM

COMPLAINANT: KEVIN COOK RESPONDENT: JEROME W. KIZER
ADDRESS: [REDACTED] ADDRESS: [REDACTED]
TELEPHONE NUMBER: [REDACTED] TELEPHONE NUMBER: [REDACTED]
TITLE: TITLE:

Set forth in detail specific facts upon which you based your complaint against above-named respondent (only detailed, clear factual allegations will be considered. If additional space is needed, attach supplemental sheets).

- 1) JEROME W. KIZER IS A COUNCILMAN ON EDISTO BEACH TOWN COUNCIL.
- 2) ON JUNE 8TH 2023 JEROME W. KIZER VOTED TO AMEND THE 'NEPOTISM' POLICY OF THE TOWN TO REMOVE THE PROHIBITION OF COUNCIL MEMBERS FROM HAVING FAMILY MEMBERS WORK FOR THE TOWN. THE VOTE WAS UNANIMOUS AND WAS PASSED BY COUNCIL.
- 3) ON JULY 3RD 2023 THE TOWN FIRED JOHN KIZER (RELATIVE OF JEROME KIZER), POSSIBLY HIS SON.
- 4) NEPOTISM IS STRICTLY FORBIDDEN BY THE GOVERNMENT ACCOUNTABILITY AND CAMPAIGN ACT OF 1991.

If there is a finding of probable cause, the following documents become public record: the complaint, the response (if any) by respondent, and the notice of hearing. If a hearing is to be held, the final order and all exhibits become public record. If no hearing is held following a finding of probable cause, the final disposition of the matter becomes public record.

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON
Personally appeared before me Kevin Cook who, first being duly sworn, says that he/she has read and knows the contents of the above complaint and that the allegations contained therein, are true and correct to the best of his/her own knowledge, except for those matters therein based upon information and belief, and as to those he/she believes them to be true.

Sworn to and subscribed before me this 11th day of November 2023

[REDACTED]

[REDACTED]

Complainant Signature

Notary Public for South Carolina
My Commission expires 7-9-2030

SEC-7 (Revised 3/2022)

REPLY TO: 201 Executive Center Drive, Suite 150, Columbia, South Carolina 29210 (803)253-4192

ELECTRONIC COPIES WILL NOT BE ACCEPTED
SHERRI E. EDSALL
Notary Public, State of South Carolina
My Commission Expires 7/9/2030

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE STATE ETHICS COMMISSION

IN THE MATTER OF:)

Complaint C2023-136)

Kevin Cook)
Complainant.)

NOTICE OF HEARING

Jerome W. Kizer)
Respondent.)

The State Ethics Commission has determined that there is probable cause pursuant to Section 8-13-320(10)(i), Code of Laws, South Carolina, 1976, as amended, in the above-captioned complaint. The State Ethics Commission will, therefore, convene a formal hearing into the matters, in accordance with Section 8-13-320(10)(i) & (j), Code of Laws, South Carolina, 1976, as amended, and State Ethics Commission Regulations, S.C. Code Ann. Regs. 52-707 (1997 Cum. Supp.) on Thursday, October 17, 2024 at 9:30 a.m. at the State Ethics Commission Hearing Room located at: 201 Executive Center Drive, Suite 150, Columbia, South Carolina 29210.

The following allegations will be heard:

COUNT ONE
FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH AN
INDIVIDUAL WITH WHICH ASSOCIATED HAD AN ECONOMIC INTEREST
SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED


That Jerome W. Kizer, Town of Edisto Beach Councilmember, did in Richland County, fail to recuse from discussion and provide a written recusal statement during an April 13, 2023 executive session council discussion about amending the town’s nepotism policy, which would allow Respondent’s son to be hired by the town fire department, in violation of Section 8-13-700(B).

COUNT TWO
**FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH AN
INDIVIDUAL WITH WHICH ASSOCIATED HAD AN ECONOMIC INTEREST
SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED**

That Jerome W. Kizer, Town of Edisto Beach Councilmember, did in Richland County, fail to recuse from voting and provide a written recusal statement during June 8, 2023 council meeting regarding amending the town's nepotism policy, which would allow Respondent's son to be hired by the town fire department, in violation of Section 8-13-700(B).

You have the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross-examine opposing witnesses. This hearing will be open to the public as required by Section 8-13-320(10)(j), Code of Laws, South Carolina, 1976, as amended. The procedures to be followed are set forth in the Administrative Procedures Act, Section 1-23-10, et seq., Code of Laws, South Carolina, 1976, as amended, the State Ethics Act, Section 8-13-100, et seq., Code of Laws, South Carolina, 1976, as amended, and State Ethics Commission Regulations S.C. Code Ann. Regs. 52-707 (1997 Cum. Supp.).

A pre-hearing conference may be scheduled prior to the hearing to allow exchange of witness lists and evidence, marking of exhibits, and disposition of motions or pleadings. In the event you fail to appear, judgment by default will be rendered against you. If there are any questions concerning the above notice or hearing times, please contact the State Ethics Commission.


Meghan Walker Dayson, Executive Director
State Ethics Commission

Dated this 20th day,
of May 2024.

Certificate of Service by Certified Mail

I hereby certify that a copy of this **NOTICE OF HEARING** was duly served on Respondent Jerome W. Kizer, Edisto Island, SC 29438 by depositing said **NOTICE OF HEARING** in the United States mail, Columbia, South Carolina on this 23rd day of May 2024, by **CERTIFIED MAIL, E-RETURN RECEIPT REQUESTED**, appropriate postage affixed, and a return address clearly indicated on said envelope.



Columbia, South Carolina

Rachael O'Bryan, Administrative Assistant
State Ethics Commission (803) 253-4192

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE STATE ETHICS COMMISSION

IN THE MATTER OF:)
COMPLAINT C2023-136)

Kevin Cook,)
Complainant,)

CONSENT ORDER

Jerome W. Kizer,)
Respondent.)
_____)

This matter comes before the South Carolina State Ethics Commission (Commission) by way of a complaint filed on November 20, 2023. Pursuant to Section 8-13-320(10)(i) of the South Carolina Ethics, Government Accountability, and Campaign Reform Act (Ethics Act), the Complaint against Jerome W. Kizer (Respondent) was considered by the Commission and probable cause was found to warrant an evidentiary hearing. Prior to the call of the case, Respondent agreed to the following:

STATEMENTS OF FACT

1. Respondent has served on Edisto Beach Town (Town) Council (Council) since 2015.
2. The Town's Personnel Manual, dated August 13, 2020, had a nepotism policy that stated, in relevant part, "Members of the immediate family of elected officials of the Town are not eligible for Town employment."
3. On March 20, 2023, Respondent's son submitted an employment application to the Town Fire Department. However, given the aforementioned nepotism policy, Respondent's application could not be considered.
4. The Commission's investigation revealed that, according to Town Mayor Crawford Moore, the Town had difficulties hiring qualified individuals in the public safety departments.

- According to Mayor Moore, the Town considered Respondent's son to be the best candidate for the vacant firefighter position and was unable to hire him due to the nepotism policy.
5. On March 23, 2023, Town Attorney Maryanne Blake and Town Administrator Mark Aakhus exchanged emails regarding amending the Town's nepotism policy to allow Respondent's son to work for the Town. Respondent did not participate nor was he included in these exchanges.
 6. During April 13, 2023 and May 9, 2023 Council meetings, Council discussed, in relevant part, amending the Town's nepotism policy. During the May 9, 2023 discussion, Respondent submitted a written statement of recusal listing "possible financial gain of a family member" as the reason for his recusal. However, he participated in the discussion held on April 13, 2023.
 7. At a June 8, 2023 Council meeting, Council addressed the difficulties in hiring qualified individuals in the public safety departments by voting to amend the nepotism policy, in relevant part, to allow for the employment of relatives of elected officials. The new policy applied to "all current employees of the Town and candidates for employment." The vote passed unanimously, with Respondent participating in the vote.
 8. On June 22, 2023, Respondent sent the Commission's General Counsel Courtney Laster an email asking whether he would be held in violation of the Ethics Act due to his son being hired by the Town. In an email dated June 23, 2023, Laster advised Respondent that, pursuant to Sections 8-13-700 and 8-13-750, he was required to recuse himself from all Council matters that pertained to his son's economic interests and employment.
 9. The Town approved the employment application for Respondent's son on June 28, 2023. Respondent did not participate nor was he involved in the hiring of his son.

CONCLUSIONS OF LAW

Based upon the Statements of Facts, the Commission concludes, as a matter of law:

1. At all times relevant, Respondent was a public official, as defined by Section 8-13-100(27).

Therefore, the Commission has personal and subject matter jurisdiction.

2. Section 8-13-700(B) provides, in relevant part:

No [public official] may make, participate in making, or in any way attempt to use his [public office] to influence a governmental decision in which he, a family member, an individual with whom he is associated, or a business with which he is associated has an economic interest. A [public official] who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a family member, an individual with whom he is associated, or a business with which he is associated shall:

- (1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

...

- (4) if he is a public official, other than a member of the General Assembly, he shall furnish a copy of the statement to the presiding officer of the governing body of an agency, commission, board, or of a county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes.

3. Section 8-13-100(15) defines "family member" as:

- (a) the spouse, parent, brother, sister, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild; or

- (b) a member of the individual's immediate family.

4. Section 8-13-130 allows the Commission to "levy an enforcement or administrative fee on a person who is in violation of any provision of the Ethics Act."

5. Section 8-13-320(10)(l)(i) allows the Commission to require payment of a civil penalty of up to two thousand dollars for each violation of the Ethics Act.

DISCUSSION

The Commission found probable cause to charge Respondent with two (2) counts of violating Section 8-13-700(B) for (1) failing to recuse himself from the April 13, 2023 Council discussion regarding amendment of the Town's nepotism policy, and (2) voting during the June 8, 2023 Council meeting to adopt the Town's new nepotism policy.

Through this Consent Order, Respondent acknowledges he violated the Ethics Act in each instance outlined in the Notice of Hearing.

For mitigation, Respondent states the following:

With regard to the Respondent's participation in the Council's April 13th and May 9th discussions and vote regarding the nepotism policy, Respondent routinely relied on Maryann Blake, counsel to Edisto Beach, on all matters relating to ethics, contracts and any manner of legal issues. Respondent was advised by Ms. Blake that he could lawfully participate in the vote on the city's nepotism policy as the matter did not directly relate to his son's potential employment. Although Respondent's conduct was undertaken upon advice of counsel, he does not dispute that he violated the Ethics Act by participating in the discussion and vote on the nepotism policy.

DISPOSITION

1. The Commission hereby finds Respondent in violation of two (2) counts of Section 8-13-700(B) as outlined herein.
2. The Commission hereby adopts the Statements of Fact, Conclusions of Law, Discussion, and Disposition as agreed upon by the Respondent.

THEREFORE, the Commission hereby issues this Public Reprimand to Respondent for violations of the Ethics Act;


AND orders Respondent to pay to the Commission, within six (6) months from receipt of this Order, a reduced civil penalty of \$400.00 (\$200.00 for each violation) and an administrative fee of \$600.00, for a total of \$1,000.00.

By executing this Consent Order, Respondent understands that he is not only admitting to


violations of the Act, but also confessing to a judgment of \$1,000.00 (less any money paid to the Commission) in the event he does not make full and timely payment as provided in this Order. In that event, the Commission shall file a Judgment against Respondent in the County of Respondent's last known residence. Upon said filing, the Clerk of Court shall enter this Order in the amount of \$1,000.00 (less any money paid to the Commission) in its Judgment Rolls, without cost to the Commission.

AND IT IS ORDERED THIS 3rd DAY OF December, 2024.

STATE ETHICS COMMISSION


SCOTT E. FRICK, CHAIR


JEROME W. KIZER
RESPONDENT


GREGORY P. HARRIS
RESPONDENT'S ATTORNEY